THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WRIT PETITION NO. 22784 of 2005

DT.24.10.2005

Between:

Tappers Co-operative Society Group Bellampally (Boodacollery-II),

Bellampally, Koyyada Nara Goud S/o. Anka Goud (Former President of TCS Group) Occ: Tapper, R/o. H.No. 9-7-5, Ambedkar Colony,

Bellampally, Adilabad District,

..... PETITIONER

AND

The Proh. & Excise Superintendent, Mancherical /F.A.C.

The Proh. & Excise Superintendent, Adilabad, Adilabad District

and another.

.....RESPONDENTS

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader for Prohibition and Excise.

The petitioner questions the proceedings of the first respondent in Rc.No.A1/PR.376/2005-06 dated 10.10.2005 as illegal and arbitrary.

A perusal of the said order goes to show that an inspection was made on 7.10.2005 in respect of Toddy Depot of Bellampally and shop Nos.4, 6, 7, 8 and 9 of TCS Group, Bellampally and tested the toddy and in the said spot test the toddy was found adulterated with Chloral Hydrate and thus it is stated that under Rule 11 of A.P.Excise (Arrack & Toddy Licences General Conditions) Rule 1969 of A.P.Excise (Tapping of Trees and Toddy Shop Special conditions of licence) Rule, 1969,

adulteration of toddy is prohibited, which is punishable under Section 37(a) of A.P.Excise Act, 1968. Basing on the said spot test in respect of the said five shops and one toddy depot, the first respondent suspended all the 11 constituent toddy shops of the depot and also the depot licence. Though the order goes to show that the suspension of the licence is not pending enquiry, but it looks as final order only without issuing any show cause notice and without making any enquiry.

The learned Government Pleader for Prohibition and Excise submits that the suspension of licence pending enquiry is only an interim measure and it is not a final order and therefore it is open for the licensing authority to suspend the licence pending enquiry. The suspension of licence pending enquiry is incidental and ancillary to the main power.

The learned counsel for the petitioner submits that immediately an application has been made to send the second sample bottle to the independent laboratory for analysis and without waiting for the analyst report and without making an enquiry and without issuing any show cause notice, the first respondent has suspended the licence where the toddy appears to have been adulterated and suspended all other licences.

Having regard to the facts and circumstances of the case, I am of the opinion that it is not a final order and the suspension is only as an interim measure. Therefore, I am not inclined to suspend the operation of the said order in respect of TCS group of toddy shop Nos.4, 6, 7, 8 and 9. In so far as the licences in respect of TCS group of toddy shop Nos.1 to 3, 5, 10 and 11 are concerned, no inspection was made and toddy was not found adulterated and there cannot be any suspension pending enquiry.

Accordingly, the impugned order suspending the licence in respect of TCS Group Bellampally Shop Nos.1 to 3, 5, 10 and 11 is set aside. The writ petition is accordingly disposed of. No costs.

(V.ESWARAIAH, J.)

24.10.2005

kpr